IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO: 20640 of 2004

Between:

1 Rokkam Raviprasad, S/o Smt.Gedela Hemalatha,
Induction Trainee Chest No.4290, Chinnakommara Street,
Parvathipuram, Vizianagaram District
2 Rokkam Srinivasa Hariprasad, S/o Smt.Gedela Hemalatha,
Induction Trainee Chest No.4293, Chinnakommara Street,
Parvathipuram, Vizianagaram District

..... PETITIONERS

AND

1 Director, A.P.Police Academy, Himayatsagar, Hyderabad
2 Deputy Inspector General of Police, Vizianagaram
3 Commissioner / Director, Tribal Welfare, TCR & TI,
T.S.Bhavan, Masab Tank, Hyderabad
4 District Collector, Vizianagaram
5 Mandal Revenue Officer, Kurupam, Vizianagaram District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or direction holding that the Memo Rc.No.1329/TD6/2004 dated 26/10/2004 of the 1st respondent herein and the proposed enquiry into the social status of the petitioners by the 3rd respondent herein as arbitrary and unjust as the matter is sub-judice in Hon'ble Court and consequently refrain the respondents from adjudicating on the social status of the petitioners and grant such other relief or reliefs as may be deemed fit and just.

Counsel for the Petitioner: MR.NOUSHAD ALI

Counsel for the Respondents: GP FOR SOCIAL WELFARE

The Court at the stage of admission made the following:

HONOURABLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION NO.20640 OF 2004

ORDER:

The petitioners are brothers. They were recruited as Sub-Inspectors (Civil) in Police Department and they are undergoing training in the first respondent academy. They were recruited under the quota of Schedule Tribes. The first respondent issued a memo dated 26.10.2004 to the petitioners regarding the verification of their social status mentioning that the petitioners attended before the Commissioner of Tribal Welfare on 08.10.2004 without any documentary evidence or elder members of their family to substantiate their claim as ST, that the Commissioner of Tribal Welfare entertained a prima-facie doubt about the tribal status of the petitioners that the matter was seriously viewed by the Government and ordered a *suo motu* field enquiry, therefore, the Commissioner of tribal welfare finally granted 15 days to the petitioners to substantiate their claim of social status as ST. They were further directed to appear before the Commissioner Tribal Welfare, Hyderabad as and when called for by them and if they fail to appear before the Commissioner on the stipulated date and fail to establish their social status, they will be liable for discharge from training without prior notice besides initiating suitable disciplinary and legal action as per rules by the competent authority. The petitioners being aggrieved by the memo approached this Court through this writ petition praying to hold that the memo dated 26.10.2004 issued by the first respondent and the proposed enquiry regarding the social status of the petitioners by the third respondent are arbitrary and unjust and consequently to refrain the respondents from adjudicating on the social status of the petitioners.

2. The petitioners are contending that there was an enquiry regarding the social status of their uncle Krishna Rao in 1992 and the District Collector, Vizianagaram prepared a report on 20.10.1992 holding that the said Krishna

Rao and his family members belong to Manne Dora Scheduled Tribe. Their another uncle, Sri G.Apparao, was also subjected to enquiries regarding the social status and he was also held to be a Manne Dora. There was another enquiry against another uncle Sri Lakshmi Ganeswara Rao and he was also held to belong Manne Dora Community. The petitioners further contended that they are the off-springs of an inter-caste marriage between their mother Hemalatha belonging to Manne Dora Schedule Tribe and father Jagadeeswara Rao a Telaga by caste. The petitioners were brought up as tribals. The petitioners further submitted that the District Collector initiated an enquiry under the provisions of (SC, ST and BCs) Regulation of issue of Community Certificates Act, 1993 against their uncle Apparao and cancelled the social status certificate of the said person through the proceedings dated 04.12.2000. Therefore, all the uncles of the petitioners filed W.P.No.24876 of 2000 before this Court and it was dismissed on the ground that the alternative remedy was not availed and this Court while dismissing the writ petition suspended the order of the Collector pending preferring of the appeal within three months. Against the said order the uncles of the petitioners preferred W.A.No.1696 of 2000 before a Division Bench of this Court and this Court after admitting the appeal directed to maintain status-quo through the order dated 06.02.2001 in W.P.M.P.No.3959 of 2000 and the writ appeal is pending. The petitioners further contended that since the third respondent prima-facie concluded that they do not belong to Schedule Tribe, no useful purpose would be served by appearing before the third respondent. Since the whole issue is sub-judice before this Court, there is no justification to permit the third respondent to conduct an enquiry against the petitioners separately. Since the respondents 1 and 3 are insisting upon the petitioners to undergo the enquiry, it is expedient to stay the further proceedings and to hold that the memo dated.26.10.2004 issued by the first respondent is arbitrary.

3. The point for consideration is:

> "*Whether the writ petition filed by the petitioners is maintainable against the memo issued by the first respondent to appear before the third respondent is liable to be set aside?*

4 . The petitioners were selected as Sub-Inspectors in the Police Department under S.T. Quota. They are claiming that their father belongs to Telaga Caste and their mother belongs to Manne Dora Schedule Tribe. They mentioned that after enquiries, their uncles were declared as people belonging to Manne Dora Tribe. They contend that their uncles and their family members filed writ appeal before this Court and the status-quo in respect of the orders issued against them was directed to be maintained.

5. After the selection of the petitioners as Sub-Inspectors, their social status certificates were sent to the third respondent for verification. The third respondent required the petitioners to appear before him and accordingly the petitioners appeared before the Commissioner on 08.10.2004 without any documents or elders. Therefore, the third respondent entertained a doubt about the social status of the petitioners. It is the responsibility of the petitioners to clarify the doubt entertained by the third respondent by producing such material available with them to substantiate their contention that they belong to Schedule Tribe. No adverse order has been passed by the third respondent against the petitioners and the matter is at the stage of enquiry. The petitioners having availed the benefit of reservation of Schedule Tribe are expected to show their *bona fides* regarding their plea. Though the petitioners referred to certain persons as their uncles, they did not mention whether they are paternal or maternal uncles. Therefore, the petitioners cannot avoid the enquiry regarding the social status on the pretext of the pendency of the writ appeal filed by their uncles regarding their social status and on the pretext of the status-quo order said to be passed by this Court in the said writ appeal. The petitioners are presuming that the third respondent already came to a conclusion that they do not belong to Schedule Tribe; therefore, no useful purpose would be served by appearing before the third respondent for enquiry. Since the impugned memo is only requiring the petitioners to appear for enquiry regarding their social status by producing the necessary material available with them, the petitioners cannot contend that any prejudice is caused to them. If any order is passed by this Court stalling or canceling the enquiry regarding the social status of the petitioners, it amounts to causing interference in discharge of the duties of the concerned authorities according to the procedure prescribed under law.

6 . The learned counsel for the petitioners relied on the following judgments, in support of the plea of the petitioners regarding the maintainability of the writ petition:

i) M/s.Hy Lay Poultry Farms V. State of Haryana,

ii) Ashok Kumar Yadav and others v. State of Haryana

iii) G.Apparao and others v. The Commissioner of Tribal Welfare, Government of A.P.

7. The principles laid down in the above rulings have no bearing on the facts of the case on hand. Therefore, the judgments are not extracted.

8. In the light of the foregoing discussion, the petitioners cannot maintain the writ petition at this stage.

9. The Writ Petition is accordingly dismissed at the admission stage. No order as to costs.

Dr. G.YETHIRAJULU, J

23rd November, 2004

SKM

To

1 The Director, A.P.Police Academy, Himayatsagar, Hyderabad
2 The Deputy Inspector General of Police, Vizianagaram
3 The Commissioner / Director, Tribal Welfare, TCR & TI, T.S.Bhavan, Masab Tank, Hyderabad
4 The District Collector, Vizianagaram
5 The Mandal Revenue Officer, Kurupam, Vizianagaram District.

6 Two C.Cs. to G.P. for Social Welfare, High Court Buildings,

High Court of A.P., Hyderabad (OUT)

7 Two CD Copies.